

(2) RESORT TO A REMEDY PROVIDED UNDER THIS ARTICLE OR IN THE LEASE AGREEMENT IS OPTIONAL UNLESS THE REMEDY IS EXPRESSLY AGREED TO BE EXCLUSIVE. IF CIRCUMSTANCES CAUSE AN EXCLUSIVE OR LIMITED REMEDY TO FAIL OF ITS ESSENTIAL PURPOSE, OR PROVISION FOR AN EXCLUSIVE REMEDY IS UNCONSCIONABLE, REMEDY MAY BE HAD AS PROVIDED IN THIS ARTICLE.

(3) CONSEQUENTIAL DAMAGES MAY BE LIQUIDATED UNDER § 2A-504, OR MAY OTHERWISE BE LIMITED, ALTERED, OR EXCLUDED UNLESS THE LIMITATION, ALTERATION, OR EXCLUSION IS UNCONSCIONABLE. LIMITATION, ALTERATION OR EXCLUSION OF CONSEQUENTIAL DAMAGES FOR INJURY TO THE PERSON IN THE CASE OF CONSUMER GOODS IS PRIMA FACIE UNCONSCIONABLE BUT LIMITATION, ALTERATION OR EXCLUSION OF DAMAGES WHERE THE LOSS IS COMMERCIAL IS NOT PRIMA FACIE UNCONSCIONABLE.

(4) RIGHTS AND REMEDIES ON DEFAULT BY THE LESSOR OR THE LESSEE WITH RESPECT TO ANY OBLIGATION OR PROMISE COLLATERAL OR ANCILLARY TO THE LEASE CONTRACT ARE NOT IMPAIRED BY THIS ARTICLE.

#### 2A-504. LIQUIDATION OF DAMAGES

(1) DAMAGES PAYABLE BY EITHER PARTY FOR DEFAULT, OR ANY OTHER ACT OR OMISSION, INCLUDING INDEMNITY FOR LOSS OR DIMINUTION OF ANTICIPATED TAX BENEFITS OR LOSS OR DAMAGE TO THE LESSOR'S RESIDUAL INTEREST, MAY BE LIQUIDATED IN THE LEASE AGREEMENT BUT ONLY AT AN AMOUNT OR BY A FORMULA THAT IS REASONABLE IN LIGHT OF THE THEN ANTICIPATED HARM CAUSED BY THE DEFAULT OR OTHER ACT OR OMISSION.

(2) IF THE LEASE AGREEMENT PROVIDES FOR LIQUIDATION OF DAMAGES, AND SUCH PROVISION DOES NOT COMPLY WITH SUBSECTION (1), OR SUCH PROVISION IS AN EXCLUSIVE OR LIMITED REMEDY THAT CIRCUMSTANCES CAUSE TO FAIL OF ITS ESSENTIAL PURPOSE, REMEDY MAY BE HAD AS PROVIDED IN THIS ARTICLE.

(3) IF THE LESSOR JUSTIFIABLY WITHHOLDS OR STOPS DELIVERY OF GOODS BECAUSE OF THE LESSEE'S DEFAULT OR INSOLVENCY (§ 2A-525 OR § 2A-526), THE LESSEE IS ENTITLED TO RESTITUTION OF ANY AMOUNT BY WHICH THE SUM OF HIS (OR HER) PAYMENTS EXCEEDS:

(A) THE AMOUNT TO WHICH THE LESSOR IS ENTITLED BY VIRTUE OF TERMS LIQUIDATING THE LESSOR'S DAMAGES IN ACCORDANCE WITH SUBSECTION (1); OR

(B) IN THE ABSENCE OF THOSE TERMS, 20 PERCENT OF THE THEN PRESENT VALUE OF THE TOTAL RENT THE LESSEE WAS OBLIGATED TO PAY FOR THE BALANCE OF THE LEASE TERM, OR, IN THE CASE OF A CONSUMER LEASE, THE LESSER OF SUCH AMOUNT OR \$500.

(4) A LESSEE'S RIGHT TO RESTITUTION UNDER SUBSECTION (3) IS SUBJECT TO OFFSET TO THE EXTENT THE LESSOR ESTABLISHES:

(A) A RIGHT TO RECOVER DAMAGES UNDER THE PROVISIONS OF THIS ARTICLE OTHER THAN SUBSECTION (1); AND